

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Jeffrey A. Yates,	:	Case No. 5:07CV0108
Plaintiff	:	Judge Christopher Boyko
v.	:	Magistrate Judge David S. Perelman
Commissioner of Social Security,	:	REPORT AND RECOMMENDED
Defendant	:	DECISION

On December 17, 2007 plaintiff's counsel submitted a "Suggestion of Death" stating "Pursuant to Federal Rule of Civil Procedure 25, the attorneys for the Plaintiff hereby give notice to this Court that the Plaintiff has died. Plaintiff's attorneys have been unable to identify any individuals who could serve as a substituted party in this matter."

This Court then granted plaintiff's counsel ninety days within which to identify a successor plaintiff and file a motion for substitution. That period has elapsed, and no motion has been filed.

Rule 25(a)(1) of the Federal Rules provides that unless a motion for substitution "is made not later than 90 days after the death is suggested upon the record...the action shall be dismissed as to the deceased party."

It is, accordingly, recommended that this action be dismissed.

s/DAVID S. PERELMAN
United States Magistrate Judge

DATE: March 20, 2008

OBJECTIONS

Any objections to this Report and Recommended Decision must be filed with the Clerk of Courts within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court's order. *See, United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See, also, Thomas v. Arn*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986).